

Administrative Order # _____
Procedures for Ordering and Preparing Transcripts of Trial Court Proceedings

- A. Purpose. The purpose of this Administrative Order is to set out in detail the duties of the clerk's office, the appellant, the appellee, and the court reporter, private stenographer or transcriber (as the case may be) in the preparation of the transcript of trial court proceedings to be included in the record of any appeal, and to provide a central reference to other directives relevant to transcript preparation.
- B. Relation to other directives. This order sets forth the procedures referred to in Mass. R.A.P. 8(b)(1) and 8(b)(2). The time standards applicable to the preparation of transcripts are set forth in Administrative Order #09-2. The format of transcripts is governed by Administrative Directive #1-08-UTF. Supreme Judicial Court Rule 1:07 is applicable to the selection of transcribers for transcription of electronically recorded proceedings.
- C. Office of Transcription Services. The Office of Transcription Services within the Administrative Office of the Trial Court ("OTS") has been established to manage transcript preparation, implement recommendations of the 2003 Report of the Study Committee on Trial Transcripts, and improve delivery and quality of transcripts of proceedings in the Massachusetts Trial Court.
- D. Procedures for ordering a transcript.
1. Forms. Any order or other request for a transcript governed by this order shall be submitted by the ordering party to the court reporter, stenographer, or transcriber, as the case may be, using the form prescribed therefor by OTS. Similarly, when this order directs the clerk or any party to file a certificate of a transcript order, the certificate shall be in the form prescribed by OTS.
 2. Proceedings recorded by Official Court Reporter or Private Stenographer.
 - a. Civil Cases, Except Child Welfare Cases. Any party ordering a transcript of any proceeding or part thereof pursuant to Mass. R.A.P. 8(b)(1) shall submit to the court reporter or stenographer, as the case may be, an order therefor, within the time prescribed by that rule. Upon submission of such order, the ordering party shall file a certificate thereof, as provided in Mass. R.A.P. 8(b)(1).
 - b. Criminal and Child Welfare Cases. (i) Upon the filing of a notice of appeal, the clerk shall, within the time specified in Mass. R.A.P. 8(b)(2), order from the court reporter (or stenographer, if applicable), a transcript of the proceedings described in subparagraph (ii) below. Upon submission of such order, the clerk shall file a certificate thereof, as provided in Mass. R.A.P. 8(b)(2).

- (ii) (a) In criminal cases, the clerk's order for a full appeal shall include the following proceedings:
 - A. Motions to dismiss
 - B. Motions to suppress evidence
 - C. Motions in limine
 - D. Jury empanelment
 - E. Trial
 - F. Verdict
 - G. Disposition
 - H. Post-trial motion on which evidence is heard

For an interlocutory appeal, the order shall include the proceeding appealed from.

(b) in child welfare cases, the clerk's order shall include the entire proceedings, except portions for which a transcript is already on file.

(iii) If any party thereafter wishes to have additional proceedings or parts thereof transcribed, the party seeking such additional transcript shall file and serve a request therefor, and the clerk shall, within ten days after receipt of such request, submit an order therefor to the court reporter or stenographer who recorded the proceeding. However, no such request may be filed later than thirty days following the entry of the appearance of appellate counsel for the defendant (or twenty days following the notice of appeal, if trial counsel is to continue as appellate counsel for the defendant), except as may be allowed by the trial court on motion by either party.

(iv) If the appellant believes that transcription of any portion of the proceedings described in subparagraph (ii) above is unnecessary for the record on appeal and consequently does not wish to have such portion transcribed, the appellant shall, no later than ten days following the clerk's certificate of order, file with the clerk, serve on the other parties, and send a copy to the court reporter and stenographer, a statement setting forth the portions of the proceeding that the appellant does not wish to have transcribed.

3. Electronically Recorded Proceedings.

- a. Civil Cases, Except Child Welfare Cases. Within ten days after the filing of a notice of appeal, the clerk shall create a digital copy of the electronic recording of the proceedings, shall notify the parties that such copy has been created, and shall make an entry on the docket of the case reflecting such notification. Thereafter, any party ordering a transcript of any

proceeding or part thereof pursuant to Mass. R.A.P. 8(b)(1) shall, within the time prescribed by that rule, submit to a transcriber from the list of approved transcribers maintained by OTS or (with the approval of OTS) shall submit directly to OTS an order for such transcript. Upon submission of such order, the ordering party shall file a certificate thereof, as provided in Mass. R.A.P. 8(b)(1).

- b. Criminal and Child Welfare Cases. (i) Upon the filing of a notice of appeal, the clerk shall create a digital copy of the electronic recording of the proceedings described in paragraph (ii) below. Thereafter, the clerk shall, within the time specified in Mass. R.A.P. 8(b)(2), submit to a transcriber from the list of approved transcribers maintained by OTS or (with the approval of OTS) shall submit directly to OTS an order for a transcript of such proceedings. The selection of the transcriber shall be made in accordance with Supreme Judicial Court Rule 1:07. Upon submission of such order, the clerk shall file a certificate thereof, as provided in Mass. R.A.P. 8(b)(2). If proceedings in a particular case have occurred in multiple districts, the clerk in the district where the trial occurred shall be responsible for coordinating the transcript order.

- (ii) (a) In criminal cases, the copy made by the clerk for a full appeal shall include the following proceedings:
- A. Motions to dismiss
 - B. Motions to suppress evidence
 - C. Motions in limine
 - D. Jury empanelment
 - E. Trial
 - F. Return of jury verdict
 - G. Disposition
 - H. Post-trial motion on which evidence is heard

For an interlocutory appeal, the copy shall include the proceeding appealed from.

(b) in child welfare cases, the copy made by the clerk shall include the entire proceedings, except portions for which a transcript is already on file.

- (iii) If any party thereafter wishes to have additional proceedings or parts thereof transcribed, the party seeking such additional transcript shall file and serve a request therefor, and the clerk shall, within ten days after receipt of such request, create a digital copy of the applicable recording and submit an order for such transcript to the transcriber previously engaged to transcribe the related proceedings. However, no such request may be filed later than

thirty days following the entry of the appearance of appellate counsel for the defendant (or twenty days following the notice of appeal, if trial counsel is to continue as appellate counsel for the defendant), except as may be allowed by the trial court on motion by either party.

- (iv) If the appellant believes that transcription of any portion of the proceedings described in subparagraph (ii) above is unnecessary for the record on appeal and consequently does not wish to have such portion transcribed, the appellant shall, no later than ten days following the clerk's certificate of order, file with the clerk, serve on the other parties, and send a copy to the transcriber, a statement setting forth the portions of the proceeding that the appellant does not wish to have transcribed.

E. Completion and Delivery of Transcript; Copies. Upon receipt of a transcript order, the court reporter, private stenographer or transcriber, as the case may be, shall promptly (and in all events not later than the time prescribed by Administrative Order #09-2) prepare an electronic pdf copy of the transcript in the format prescribed by Administrative Directive #1-08-UTF. In civil cases (including child welfare cases), the court reporter, stenographer or transcriber, as the case may be, shall upon completion file with OTS an electronic pdf copy of the transcript and shall, subject to the provisions of paragraph F.1 below, deliver legible copies to the appellant and any other party who so requests. In criminal cases, the court reporter, stenographer or transcriber, as the case may be, shall upon completion file with OTS an electronic pdf copy of the transcript; OTS thereafter shall promptly deliver to the parties an electronic pdf copy of the transcript, either by email or by sending a CD by regular mail. In all cases, OTS shall also transmit an electronic pdf copy of the transcript to the office of the clerk responsible for the docket of the case, and upon such transmission the transcript shall be a part of the record of the case maintained by the clerk.

F. Payment.

1. All non-indigent cases.

a. Deposit.

- (i) Civil Cases, Except Child Welfare. With the submission of any transcript order, the ordering party shall remit to the court reporter, stenographer or transcriber, as the case may be, a deposit equal to fifty percent of the estimated cost of the requested transcript. For purposes of determining the estimated cost, it shall be assumed that each hour of proceedings will produce forty pages of transcript.
- (ii) Criminal and Child Welfare Cases. Within fifteen days following notice that the clerk has ordered a transcript, the appellant shall remit to the court reporter, stenographer or transcriber, as the case

may be, a deposit equal to fifty percent of the estimated cost of the requested transcript. For purposes of determining the estimated cost, it shall be assumed that each hour of proceedings will produce forty pages of transcript.

- b. Payment of balance. Within fifteen days following notice that the completed transcript has been filed with the clerk, the appellant shall pay the balance of the cost of the transcript, and shall file a certificate of such payment. If there is more than one appellant the cost of the original and any copies for the appellants shall be divided among the appellants. Any other party to a civil case (other than child welfare cases) who requests a copy of the transcript shall pay for the cost of such copy when it is completed, and shall file a certificate of such payment. The completed transcript shall not be released to a party until such party has filed such certificate of payment. Failure by the appellant to pay the balance due upon completion of the transcript or to file a certificate of payment within such time shall be grounds for dismissal of the appeal, upon motion by the appellee.
2. Indigency. In all cases in which counsel is required to be made available pursuant to Supreme Judicial Court Rule 3:10, the cost of any transcript for such a party shall be paid in accordance with G. L. c. 261.
3. Cancellation. If an appeal is dismissed, or if a transcript order is canceled for any other reason, the party responsible for payment shall promptly pay the court reporter or transcriber for such portion of the transcript as has been completed at the time of cancellation. In addition, upon any such cancellation, the appellant shall promptly notify the clerk's office and OTS that the transcript order has been canceled.